

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

	CIVIL ACTION NO.: 05 10596 NMG
THOMAS KELLEY,)
Plaintiff,)
)
VS.)
)
TOWN OF PLYMOUTH and)
ROBERT J. POMEROY, as Chief of the)
Plymouth Police Department and)
Individually,)
Defendants.)

**DEFENDANTS' OPPOSITION TO JOINT STIPULATION AND PROPOSED
ORDER TO PRODUCE AFFIDAVIT AND PROPOSED ORDER FOR THE
PROTECTION OF CONFIDENTIAL MATERIAL**

Now come the Defendants in the above-captioned matter, and hereby object to the Joint Stipulation and Proposed Order to Produce Affidavit and Proposed Order for the Protection of Confidential Material filed with this court on August 9, 2007 (Document 76). Said Joint Stipulation and Proposed Order was filed by the Inspector General's Office ("IG") and the Plaintiff. The Defendants have not agreed to this stipulation nor to the proposed orders.

As reasons therefore, the Defendants state that they did not agree nor were they consulted on any agreement for a protective order between the Plaintiff and the IG's office pertaining to any document(s) requested by the Plaintiff.

Further, the Defendants have sought information relating to the Plaintiff's meeting with the IG's office, which in part forms the basis for the Plaintiff's allegation in his complaint that he is a whistleblower and was retaliated against by the Defendants. By allowing said "joint stipulation" submitted by the IG and

Plaintiff, the Defendants may be considered to have agreed to the proposed affidavit and non-disclosure agreement and thus, waived any right to requesting or seeking information from the IG. To prohibit the Defendants from seeking information from the IG would effectively chill their ability to seek discoverable information in this case. The Defendants have previously filed oppositions to the IG's attempts to quash their subpoena for records directly relevant to this case. (Documents 68, and 50). There have been no rulings on these motions to date.

Respectfully submitted,
DEFENDANTS,
ROBERT J. POMEROY and the
TOWN OF PLYMOUTH,
By their attorneys,

/s/ Jeremy I. Silverfine
Jeremy I. Silverfine, BBO#542779
Leonard H. Kesten, BBO# 542042
BRODY, HARDOON, PERKINS & KESTEN, LLP
One Exeter Plaza
Boston, MA 02116
(617) 880-7100

Dated: 8.15.07